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of the original on file in my office.

ATTEST:

WILFRIED J. KRAMER, Clerk

Court of Appeal

Third Appellate District

IN THE

REDACTED

By W. J. Kramer  
Deputy Clerk

IN AND FOR THE

THIRD APPELLATE DISTRICT

Dated SEP 1 1977

WILLIE LEE BROWN, M. D.

3 Civil 17099

v.

Sacramento 266780

STATE DEPARTMENT OF HEALTH

By the Court:

Execution of the decisions of respondents Board of Medical Quality Assurance, Division of Medical Quality, dated September 22, 1976, in the Accusation Against Willie Lee Brown, No. D-1550, N-5438, and respondent State Department of Health, dated March 31, 1977, in the Accusation Against Willie Lee Brown, No. 74-24, N-5437, suspending petitioner, is hereby stayed pending filing of points and authorities in opposition to this petition and further order of this court.

Dated: September 1, 1977.

PUGLIA, P. J.

cc: William L. Beeman, Sr.  
Beeman, Bradley, Brown & Beeman  
Attorneys at Law  
237 Georgia Mall South  
Vallejo, CA. 94590

cc: Joel Primes  
Deputy Attorney General

**FILED**  
SEP 1 - 1977  
COURT OF APPEAL—THIRD DISTRICT  
WILFRIED J. KRAMER, Clerk

By \_\_\_\_\_, Deputy

1 The Law Offices of  
2 BEEMAN, BRADLEY, BROWN & BEEMAN  
3 237 Georgia Mall South  
4 Vallejo, California 94590  
5 Telephone: (707) 552-7900  
6  
7 Attorneys for Petitioner  
8  
9  
10

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J. A. SIMPSON, CLERK  
By S. MORITA, Deputy  
SACRAMENTO COUNTY

OCT 20 1976

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO  
-----

11 WILLIE LEE BROWN, M.D., )

NO. 253613

12 .Petitioner, )

13 vs. )

14 BOARD OF MEDICAL QUALITY ASSURANCE, )  
15 DIVISION OF MEDICAL QUALITY, )

ORDER TO SHOW CAUSE AND  
TEMPORARY STAY ORDER  
-----

16 Respondent, )

17 DR. JOSEPH COSENTINO, Executive )  
18 Secretary, WILLIAM E. WHEELER, )  
19 Assistant Executive Secretary, )  
20 BLANCHE C. BERSCH, Secretary- )  
21 Treasurer, )

22 Real Parties In Interest. )  
23 )  
24 )  
25 )  
26 )

22 To BOARD OF MEDICAL QUALITY ASSURANCE, DIVISION OF MEDICAL QUALITY,  
23 Respondent:

24 Good cause appearing from the verified Petition for a Writ  
25 of Mandamus on file in this action,

26 IT IS ORDERED that you show cause before this Court on

1                    NOV 4 1976 , 1976, at 10:00 a.m., or as soon thereafter as  
2                    counsel can be heard, at the Courtroom of PRESIDING JUDGE  
3                    at the Courthouse, 720-9th Street, City of Sacramento, California,  
4                    why an Order should not be granted staying the operation of your  
5                    Decision in the administrative proceedings entitled In the Matter  
6                    of the Accusation Against: WILLIE LEE BROWN, 302 Fresno St., Suite  
7                    105, Fresno, California 93706, License No. C-21311, Respondent,  
8                    pending the entry of the judgment of the Court in this action.

9                    IT IS FURTHER ORDERED that you stay the operation of that  
10                    Decision pending the hearing of this Order to show cause.

11                    IT IS FURTHER ORDERED that a copy of this Order, and a copy  
12                    of the Petition for the Writ, and of any supporting affidavits and  
13                    points and authorities, be served on Respondent at least 10 days  
14                    prior to the hearing of the above Order to show cause.

15                    Dated: OCT 20 1976

16                    JOSEPH A. DeCRISTOFORO

17                    Judge  
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DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

WILLIE LEE BROWN  
302 Fresno St., Suite 105  
Fresno, California 93706

License No. C-21311

Respondent.

No. D-1550

N-5438

DECISION

The attached Proposed Decision of the Administrative Law  
Judge is hereby adopted by the Division of Medical Quality of the Board  
of Medical Quality Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on October 22, 1976.

IT IS SO ORDERED September 22, 1976.

DIVISION OF MEDICAL QUALITY OF THE  
BOARD OF MEDICAL QUALITY ASSURANCE

By

*Blanche C. Bersch*

BLANCHE C. BERSCH  
Secretary-Treasurer

BEFORE THE  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )

WILLIE LEE BROWN )  
302 Fresno St., Suite 105 )  
Fresno, California 93706 )

NO. D-1550

N-5438

License No. C-21311 )

Respondent. )

PROPOSED DECISION

The above-entitled matter came on for hearing before Charles H. Bobby, an Administrative Law Judge of the Office of Administrative Hearings, on December 2, 1975 in Fresno, California.

The complainant was represented by Joel S. Primes, Deputy Attorney General.

The respondent appeared in person and was represented by William L. Beeman, Sr., his attorney.

Oral and documentary evidence was received, the hearing was closed but the record was held open to enable the parties to file written argument and it having been received, the record was closed and the matter submitted for decision.

FINDINGS OF FACT

I

Complainant, Raymond Reid, was the Executive Secretary of the Board of Medical Examiners of the State of California, and made and filed the Accusation in such official capacity.

OFFICE OF THE  
SECRETARY OF THE  
BOARD OF MEDICAL EXAMINERS  
1100 J STREET, SACRAMENTO, CALIF. 95833

## II

On November 23, 1959, respondent, Willie Lee Brown, M.D., was issued Physicians and Surgeons Certificate No. C-21311 by the Board of Medical Examiners of the State of California authorizing him to practice medicine and surgery in this State. At all times mentioned herein respondent was licensed by said Board and his certificate is now in full force and effect.

## III

COUNT 1: On or about July 18, 1972, Dr. James Lilligren, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, performed a therapeutic abortion by dilation and vacuum curettage plus a vaginal tubal ligation on patient A [REDACTED] S [REDACTED]. Respondent Willie Lee Brown, M.D., was present as a teaching supervisory surgeon but did not actively participate in the surgery. Patient S [REDACTED] was respondent's private patient. On or about August 11, 1972, respondent billed the Medi-Cal Program \$565.50 for pelvic examination, wet smear, D & C/T.A.B. and tubal ligation performed on patient A [REDACTED] S [REDACTED]. On Form MC 163 (REV. 9-70) respondent, Willie Lee Brown, M.D., signed and certified himself as the provider of the services. On September 26, 1972, respondent received payment from California Blue Shield in the amount of \$327.00 for the above mentioned medical services rendered to patient A [REDACTED] S [REDACTED].

## IV

COUNT 2: On or about August 13, 1973, Dr. Gauvin, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, delivered a child to respondent's patient V [REDACTED] M [REDACTED] as a courtesy delivery. On or about August 25, 1972, respondent billed the Medi-Cal Program \$325.00 for prenatal care and delivery for patient V [REDACTED] M [REDACTED]. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services in question. Respondent was not present at the delivery. On or about September 26, 1972, respondent received payment from California Blue Shield in the amount of \$210.00 for the above mentioned medical services rendered to patient V [REDACTED] M [REDACTED].

## V

COUNT 3: On or about August 21, 1972, Dr. Counts, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, delivered a baby to respondent's patient S [REDACTED] D [REDACTED].

as a courtesy delivery. On or about September 31, 1972, respondent billed the Medi-Cal Program \$325.00 for prenatal care and delivery for patient S██████ D██████. On Form MC 163 (REV. 9-70) respondent, signed and certified himself as the provider of the services. Respondent was not present at the delivery. On or about December 22, 1972, respondent received payment from California Blue Shield in the amount of \$210.00 for the above mentioned medical services rendered to patient S██████ D██████.

## VI

COUNT 4: On or about October 20, 1972, Dr. James Cahill, resident physician at Valley Medical Center of Fresno, Fresno, California, delivered a baby to respondent's patient G██████ D██████ as a courtesy delivery. On or about October 31, 1972, respondent billed the Medi-Cal Program \$325.00 for prenatal care and delivery for patient G██████ D██████. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services in question. Respondent was not present at the delivery. On or about November 21, 1972, respondent received payment from California Blue Shield in the amount of \$210.00 for the above mentioned medical services rendered to patient G██████ D██████.

## VII

COUNT 5: On or about March 25, 1973, Dr. Campbell, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, delivered a baby to respondent's patient A██████. A██████ as a courtesy delivery. On or about March 31, 1973, respondent billed the Medi-Cal Program \$561.25 for prenatal care and delivery and tubal ligation performed upon patient A██████. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services. Respondent was not present at the delivery. On or about May 10, 1973, respondent received payment from California Blue Shield in the amount of \$399.15 for the above mentioned medical services rendered to patient A██████ A██████.

## VIII

COUNT 6: On or about October 4, 1972, Dr. Roger D. Sebert, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, assisted by Dr. Swanson, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, performed the following surgery on respondent's patient D██████ H██████: removal of IUD, minimal uterine curettage colpotomy for I & D. Respondent was present as a supervising

surgeon but did not participate actively in the surgery. On or about October 31, 1972, respondent billed the Medi-Cal Program \$500.00 for a bilateral oophorectomy/colpotomy-drainage and pelvic abscess performed upon patient D. H. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services. On or about February 9, 1973, respondent received payment from California Blue Shield in the amount of \$360.00 for the above mentioned services rendered to patient D. H.

IX

COUNT 7: On or about March 8, 1973, Dr. Lilligren, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, administered a saline injection to terminate the pregnancy of patient A. S. On or about January 31, 1972, respondent billed the Medi-Cal Program \$250.00 for the therapeutic abortion performed upon patient A. S. Respondent's office employee, L. M., inadvertently prepared a Form MC 163 (REV. 9-70) which certified respondent as the provider of the services and erroneously described the services as having been performed by him which respondent signed and presented to Blue Shield. On or about March 23, 1973, respondent received payment from California Blue Shield in the amount of \$183.31 for the therapeutic abortion performed on patient A. S. by Dr. James Lilligren.

X

COUNT 8: On or about November 27, 1972, Dr. Emerson, M.D., intern physician at Valley Medical Center of Fresno, Fresno, California, delivered a baby and administered a "saddle block" to respondent's patient O. R. This was a "courtesy delivery". On or about November 31, 1972, respondent billed the Medi-Cal Program \$375.00 for prenatal care, delivery and saddle block for patient O. R. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services in question. Respondent was not present at the delivery. On or about January 18, 1973, respondent received payment from California Blue Shield in the amount of \$233.25 for the above mentioned medical services rendered to patient O. R. by Dr. Emerson.

XI

COUNT 9: On or about November 9, 1972, Dr. Sebert, M.D., resident physician at Valley Medical Center of Fresno,



Fresno, California, performed a therapeutic abortion by vaginal hysterectomy upon respondent's patient M. R. Respondent was present and supervised the surgery but did not participate. On or about November 9, 1972 respondent billed the Medi-Cal Program \$560.00 for the vaginal hysterectomy and A & P repair performed on patient M. R. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services. On or about December 27, 1972, respondent received payment from California Blue Shield in the amount of \$453.31 for the above mentioned medical services rendered to M. R.

## XII

COUNT 10: On or about March 9, 1973, Dr. Peters, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, performed a vaginal hysterectomy for sterilization and abortion with anterior and posterior repair on respondent's patient R. R. Respondent was present and supervised the surgery but did not actively participate. On or about March 9, 1973, respondent billed the Medi-Cal Program \$588.00 for a vaginal hysterectomy and repair performed on patient R. R. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services. On or about April 25, 1973, respondent received payment from California Blue Shield in the amount of \$430.50 for the above mentioned surgery performed on patient R. R. by Dr. Peters, M.D.

## XIII

COUNT 11: On or about October 13, 1972, Dr. James Lilligren, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, delivered a baby to respondent's patient J. A. This was a "courtesy delivery" and respondent was not present. On or about October 31, 1972, respondent billed the Medi-Cal Program \$325.00 for prenatal care and the delivery performed on patient J. A. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the delivery services. On or about November 21, 1972, respondent received payment from California Blue Shield in the amount of \$200 for the above mentioned services performed on patient J. A.

## XIV

COUNT 12: On or about February 15, 1973, Dr. Kent Grieshaber, M.D., intern at Valley Medical Center of Fresno, Fresno, California, performed a therapeutic abortion upon respondent's patient S. H. Respondent was present and supervised

the surgery but did not actively participate. On or about February 28, 1973, respondent billed the Medi-Cal Program \$250.00 for the therapeutic abortion performed upon patient S██████ H██████. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services. On or about March 23, 1973, respondent received payment from California Blue Shield in the amount of \$173.06 for the therapeutic abortion performed upon patient S██████ H██████ by Dr. Grieshaber.

XV

COUNT 13: On or about October 17, 1972, Dr. Nathal Dappen, M.D., intern physician at Valley Medical Center of Fresno, Fresno, California, assisted by Dr. Swanson, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, performed a therapeutic abortion, dilatation, vacuum and sharp curettage on respondent's patient I██████ R██████. Respondent was present and supervised the surgery but did not actively participate. On or about October 31, 1972, respondent billed the Medi-Cal Program \$250.00 for the therapeutic abortion, dilatation, vacuum and sharp curettage performed on patient I██████ R██████. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services. On or about December 31, 1972, respondent received payment from California Blue Shield in the amount of \$150.00 for the above mentioned medical services rendered to patient I██████ R██████.

XVI

COUNT 14: On or about September 9, 1972, Dr. John Swanson, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, performed a therapeutic abortion, dilatation, vacuum and sharp curettage on respondent's patient D██████ M██████, an epileptic. Respondent was present during the surgery but did not actively participate. On or about September 30, 1972, respondent billed the Medi-Cal Program \$200.00 for the above medical services rendered to patient D██████ M██████ by Dr. Swanson. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services. On or about November 13, 1972, respondent received payment from California Blue Shield in the amount of \$181.50 for the above mentioned medical services rendered to patient D██████ M██████ by Dr. Swanson.

XVII

COUNT 15: On or about April 17, 1973, Dr. Gauvin, M.D.,

resident physician at Valley Medical Center of Fresno, Fresno, California, performed a total abdominal hysterectomy and bilateral salpingo oophorectomy on patient P [REDACTED] C [REDACTED]. Respondent was present during the major part of the surgery but did not actively participate. On or about April 30, 1973, respondent billed the Medi-Cal Program \$450.00 for the abdominal hysterectomy only, performed on patient P [REDACTED] C [REDACTED] by Dr. Gauvin. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the hysterectomy services.

#### XVIII

COUNT 16: On or about April 27, 1973, Dr. Norman Chock, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, assisted by Dr. Gauvin, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, performed surgery for multiparity of respondent's patient I [REDACTED] M [REDACTED]. Respondent was present during the latter part of the surgery as a supervisor and advised as to how to correct an excessive bleeding problem. On or about April 31, 1973, respondent billed the Medi-Cal Program \$656.15 for the above mentioned medical services rendered to patient I [REDACTED] M [REDACTED]. On Form MC 163 (REV. 9-70) respondent signed and certified himself as the provider of the services.

#### XIX

COUNT 17: On or about January 31, 1973, Dr. Albert Peters, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, assisted by Dr. Roger Sebert, M.D., resident physician at Valley Medical Center of Fresno, Fresno, California, performed an exploratory laparotomy with wedging of the ovaries on patient M [REDACTED] L [REDACTED]. On or about March 6, 1973, Dr. Peters and Dr. Sebert performed a total hysterectomy, bilateral salpingo-oophorectomy, omental biopsy on patient M [REDACTED] L [REDACTED]. Respondent was present and participated in both surgeries. On or about March 16, 1973, the Valley Medical Center of Fresno billed the Pacific Mutual Life Insurance Co. for the above mentioned surgeries performed on patient M [REDACTED] L [REDACTED] on January 31, 1973, and March 6, 1973 by Dr. Peters and Dr. Sebert. Respondent Willie Lee Brown, M.D., billed patient M [REDACTED] L [REDACTED] \$912.63 for the above mentioned surgeries performed on January 31, 1973, and March 6, 1973, by Dr. Peters and Dr. Sebert.

#### XX

On or about March 27, 1975, in the Superior Court of

California, County of Fresno, in a proceeding entitled, "The People of the State of California vs. Willie Lee Brown, M.D.", bearing Case No. 28416, respondent, was found guilty of two felony violations of section 14107 of the Welfare and Institutions Code and as a result of said guilty verdict, the following pronouncement of judgment was ordered: respondent was placed on probation for a period of two years; and required to make restitution to the State Medi-Cal Program in the sum of \$498.06; the Medi-Cal Program was to provide respondent with information that would permit an accounting of additional over-payments; respondent was fined a sum of \$2,500.00 on each count for a total of \$5,000.00. The conviction resulted from the charge made for the H[REDACTED] and H[REDACTED] treatment and services claimed. (Findings VIII and XIV, above).

#### XXI

The evidence presented establishes that, although convicted, respondent was in fact present at both surgeries (Findings VIII and XIV) and believed he had a right to charge fees for such appearance as a teaching physician.

#### XXII

During the period of time herein involved, it was respondent's regular and customary practice to utilize Valley Medical Center (county hospital) facilities for some surgeries and baby deliveries for his patients. Respondent regularly would oversee and supervise surgeries performed by the hospital staff. Pursuant to accepted and customary practice he charged an appearance fee for such service. Counts 1, 6, 9, 10, 12, 13, 14, 15 and 16 (above) involved such activity and charging.

#### XXIII

Respondent and other physicians in his practice area participated reciprocally in a "courtesy delivery" of babies. The available doctor would deliver the baby of another doctor's patient without charge and vice versa, and the patient's doctor charged his regular fee.

Counts 2, 3, 4, 5, 8 and 11 (above) involved such activity and charging.

#### XIV

Count 7 resulted from a mistake of fact committed by

respondent's employee L. M. . However, respondent signed the billing.

#### XXV

Respondent has repaid, or has made arrangements to repay, Medi-Cal for any and all overpayment.

#### XXVI

The evidence establishes that there was no intent on the part of respondent to mislead or defraud the Medi-Cal Program as to any of the claims presented under Counts 1 through 16 above.

Such claims were presented under the mistaken belief that such charges were permitted and authorized.

### DETERMINATION OF ISSUES

#### I

Cause for disciplinary action has not been established under section 2361(c), Business and Professions Code, as to any count.

#### II

Violation of section 14107, Welfare and Institutions Code has not been established as to Counts 1 through 17 of the Accusation.

#### III

Respondent has not been convicted of an offense involving moral turpitude within the meaning of sections 490 or 2383, Business and Professions Code, and cause for disciplinary action thereunder has not been established.

#### IV

As to Counts 1 through 6 and 8 through 16, in each instance, respondent has committed unprofessional conduct within the meaning of section 2411, Business and Professions Code, knowingly signing a certificate of billing which falsely represented that he had personally performed the medical services for

which he submitted bills. Respondent believed he was entitled to charge for courtesy deliveries and teaching physician appearances but knew he had not personally performed the billed for services.

V

Cause has not been established under Counts 7 and 17, in any particular alleged.

VI

Cause has not been established under Count 18 in that the evidence establishes that the attendant circumstances relating to the convictions do not involve moral turpitude.

There was no actual intent to defraud.

ORDER

1. Counts 7, 17 and 18, are, and each is, dismissed.
2. For each of the Counts 1 through 6, and 8 through 16, separately and severally, the certificate issued to Willie Lee Brown, is suspended for a period of six months, the suspensions to run concurrently; provided, however, that each order of suspension is stayed for a period of 3 years upon full compliance with the following terms and conditions:

(a) Respondent shall comply with all laws of the United States and of the State of California, and its political subdivisions and all rules and regulations of the Board of Medical Quality Assurance of the State of California.

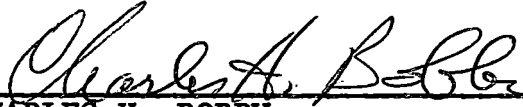
(b) Respondent shall initiate and submit to the Board of Medical Quality Assurance at quarterly intervals, an affidavit to the effect that he has fully and faithfully complied with all the terms and conditions of the probation imposed therein.

In the event respondent shall fail to fully comply with the terms and conditions of this order during the 3 year period, the Board, after notice to respondent and opportunity to be heard, may terminate the stay and impose the suspension or make such other order as may be appropriate; otherwise, upon expiration of

the 3 year period, the stay shall become permanent.

The foregoing constitutes my proposed decision in this matter. I recommend its adoption as the decision of the Board of Medical Quality Assurance of the State of California.

Dated: July 6, 1976

A handwritten signature in cursive script, reading "Charles H. Bobby", written over a horizontal line.

CHARLES H. BOBBY  
Administrative Law Judge  
Office of Administrative Hearings